

AMENDED AGENDA

CANBY CITY COUNCIL REGULAR MEETING

October 7, 2009

7:30 PM

Council Chambers

155 NW 2nd Avenue

Mayor Melody Thompson

Council President Walt Daniels

Councilor Robert Bitter

Councilor John Henri

Councilor Jason Padden

CITY COUNCIL REGULAR MEETING

1. CALL TO ORDER

- A. Pledge of Allegiance and Moment of Silence
- B. Swearing In of New City Councilor
- C. Introduction of New Library Director
- D. Oregon Day of Culture Proclamation

Pg. 1

2. COMMUNICATIONS

3. CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS

(This is an opportunity for visitors to address the City Council on items not on the agenda. It is also the time to address items that are on the agenda but not scheduled for a public hearing. Each citizen will be given 3 minutes to give testimony. Citizens are first required to fill out a testimony/comment card prior to speaking and hand it to the City Recorder. These forms are available by the sign-in podium. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter.)

4. MAYOR'S BUSINESS

5. COUNCILOR COMMENTS & LIAISON REPORTS

6. CONSENT AGENDA

(This section allows the City Council to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may be discussed if it is pulled from the consent agenda to New Business.)

- A. Approval of Minutes of the September 16, 2009 City Council Regular Meeting
- B. Approval of Minutes of the September 22, 2009 City Council Special Meeting
- C. Approval of Minutes of the September 23, 2009 City Council Special Meeting
- D. New Outlet Liquor License Application for 76 of Canby

Pg. 2

7. RESOLUTIONS & ORDINANCES

- A. Res.1042, Adopting the City of Canby's Representation in the Clackamas County Multi-Jurisdiction Natural Hazards Mitigation Plan Pg.4
- B. Res.1045, Requesting Clackamas County Surrender Jurisdiction of SE 13th Avenue Between the Easterly Right-of-Way of S. Ivy Street and a Point Approximately 358' East of the Easterly Right-of-Way of SE Teakwood Street Totaling Approximately 3,952 Linear Feet Pg. 92

- C. Res.1046, Amending Resolution No. 857 and Resolution 790 Regarding the Membership of the Canby Transit Advisory Committee Pg. 95
- D. Res. 1047, Adopting an IGA with Clackamas County for the Purpose of Providing Funding for the Canby Public Library

8. NEW BUSINESS

- A. Compensation for Interim City Administrator

9. CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS

10. CITIZEN INPUT

11. ACTION REVIEW

- 12. EXECUTIVE SESSION:** ORS 192.660(2)(e) Real Property and ORS 192.660(2)(h) Pending Litigation

13. ADJOURN

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Kim Scheafer at 503.266.4021 ext. 233. A copy of this Agenda can be found on the City's web page at www.ci.canby.or.us. City Council and Planning Commission Meetings are broadcast live and can be viewed on OCTS Channel 5. For a schedule of the playback times, please call 503.263.6287.



Office of the Mayor

Proclamation

OREGON DAY OF CULTURE

WHEREAS, the month of October has been recognized as National Arts and Humanities Month by thousands of arts and cultural organizations, communities, and states across the country, as well as by the White House and Congress for more than two decades; and

WHEREAS, October 8 marks the anniversary of Oregon's unique culture tax credit; and

WHEREAS, heritage, arts and humanities embody much of the accumulated wisdom, intellect, and imagination of humankind; and

WHEREAS, humanities, humanities and arts enhance and enrich the lives of every American; and

WHEREAS, arts, humanities and heritage play a unique role in the lives of our families, our communities, and our country; and

WHEREAS, the nonprofit cultural industry also strengthens the U.S. economy by generating more than \$166.2 billion in total economic activity annually and by supporting the full-time equivalent of over 5.7 million jobs; and


WHEREAS, events celebrating all these positive attributes will take place in Oregon from October 1 through October 8, 2009.

NOW, THEREFORE, I, Melody Thompson, Mayor of the City of Canby, hereby proclaim Thursday, October 8, 2009 as Oregon Day of Culture in the City of Canby and call upon our citizens to celebrate, participate in and give to Oregon culture in our community and, specifically, to take action for heritage, arts and humanities in our towns and cities.

Given unto my hand this 7th day of October, 2009.

Melody Thompson
Mayor

Memo

To: Mayor Thompson & Members of City Council
From: Jorge Tro, Acting Chief of Police 
CC: Kim Scheafer, General Administration
Date: September 11, 2009
Re: Liquor License Application / 76 of Canby

I have reviewed the attached liquor license application completed by the applicant, Rohit Sharma, for 76 of Canby, located at 453 SE 1st Avenue, Canby, Oregon.

I called and talked with Rohit Sharma on September 11, 2009. We discussed laws involving the sale of alcoholic beverages. Mr. Sharma told me that he would be working closely with OLCC as it relates to training for his employees on pertinent laws involving alcohol related violations and crimes.

I recommend that the Canby City Council recommend approval of this application to the Oregon Liquor Control Commission (OLCC).

RECEIVED

SEP 10 2009



CITY OF CANBY
OREGON LIQUOR CONTROL COMMISSION
LIQUOR LICENSE APPLICATION

To The City

\$100.00 9/10/09
check # 50064

Requesting 90 Day Temp. ✓

PLEASE PRINT OR TYPE

<p>Application is being made for:</p> <p>LICENSE TYPES</p> <p><input type="checkbox"/> Full On-Premises Sales (\$402.60/yr)</p> <p><input type="checkbox"/> Commercial Establishment</p> <p><input type="checkbox"/> Caterer</p> <p><input type="checkbox"/> Passenger Carrier</p> <p><input type="checkbox"/> Other Public Location</p> <p><input type="checkbox"/> Private Club</p> <p><input type="checkbox"/> Limited On-Premises Sales (\$202.60/yr)</p> <p><input checked="" type="checkbox"/> Off-Premises Sales (\$100/yr)</p> <p><input checked="" type="checkbox"/> with Fuel Pumps</p> <p><input type="checkbox"/> Brewery Public House (\$252.60)</p> <p><input type="checkbox"/> Winery (\$250/yr)</p> <p><input type="checkbox"/> Other: _____</p> <p>Applying as:</p> <p><input type="checkbox"/> Limited Partnership <input type="checkbox"/> Corporation <input checked="" type="checkbox"/> Limited Liability Company <input type="checkbox"/> Individuals</p>		<p>ACTIONS</p> <p><input type="checkbox"/> Change Ownership</p> <p><input checked="" type="checkbox"/> New Outlet</p> <p><input type="checkbox"/> Greater Privilege</p> <p><input type="checkbox"/> Additional Privilege</p> <p><input type="checkbox"/> Other _____</p>	<p>FOR CITY AND COUNTY USE ONLY</p> <p>The city council or county commission:</p> <p>_____</p> <p>(name of city or county)</p> <p>recommends that this license be:</p> <p>Granted <input type="checkbox"/> Denied <input type="checkbox"/></p> <p>By: _____</p> <p>(signature) (date)</p> <p>Name: _____</p> <p>Title: _____</p> <p>OLCC USE ONLY</p> <p>Application Rec'd by: <u>Rohit Sharma</u></p> <p>Date: <u>8/20/09</u></p> <p>90-day authority: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
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- Entity or Individuals applying for the license: [See SECTION 1 of the Guide]
 ① RBS PETROLEUM LLC ② _____
 ③ _____ ④ _____
- Trade Name (dba): 76 OF CANBY
- Business Location: 453 SE 1st Avenue, CANBY OR 97013
 (number, street, rural route) (city) (county) (state) (ZIP code)
- Business Mailing Address: 30085 SW PARKWAY AVE, Wilsonville OR 97070
 (PO box, number, street, rural route) (city) (state) (ZIP code)
- Business Numbers: 503-475-0355 503-682-8073
 (phone) (fax)
- Is the business at this location currently licensed by OLCC? ☐ Yes ☒ No
- If yes to whom: _____ Type of License: _____
- Former Business Name: _____
- Will you have a manager? ☒ Yes ☐ No Name: Rohit Sharma
 (manager must fill out an individual history form)
- What is the local governing body where your business is located? CITY OF CANBY, CLACKAMAS COUNTY
 (name of city or county)
- Contact person for this application: ROHIT SHARMA 503-475-0355
 (name) (phone number(s))
30085 SW Parkway Ave - 503-682-8073 RBS PETROLEUM1@gmail.com
 (address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

- Rohit Sharma Date 7/15/09 ③ _____ Date _____
- _____ Date _____ ④ _____ Date _____

1-800-452-OLCC (6522)
www.oregon.gov/olcc

(rev. 12/07)



M E M O R A N D U M

TO: *Honorable Mayor Thompson and City Council*
FROM: *Lt. Jorge Tro, Acting Chief of Police*
THROUGH: *Amanda Klock, Interim City Administrator*
DATE: *Sept 25, 2009*

Issue: Resolution 1042, adopting the attached Natural Hazards Mitigation Plan Addendum for the City of Canby.

Rationale: The City of Canby developed an addendum to Clackamas County's Natural Hazards Mitigation Plan. The city's addendum received Pre-Approval from the Federal Emergency Management Agency (FEMA) on August 25, 2009. The addendum will not be formally approved by FEMA until it is adopted by the City. The City of Canby will not be eligible for mitigation project grants until the plan addendum is formally approved by FEMA. The mitigation plan provides a list of activities that may assist the City of Canby in reducing risk and preventing loss from future natural hazard events.

Background: In 2003, the City of Canby developed an addendum to Clackamas County's Natural Hazards Mitigation Plan. The planning process was a collaborative effort between agencies within the city, private sector, non-profit organizations, and regional and state organizations. The plan was adopted by the City through resolution 843 in September 2003.

In the fall of 2007, the Oregon Partnership of Disaster Resilience partnered with the Oregon Emergency Management. Resource Assistance for Rural Environments (RARE), Clackamas County, and cities within Clackamas County to develop a Hazard Mitigation Grant Program planning grant proposal. The City of Canby joined the Partnership by signing a memorandum of understating for this project. FEMA awarded the Partnership with a grant to support the development and update of city addenda in Clackamas County. This grant provided a staff person through RARE to facilitate and document the city's addendum development process.

Representatives from Canby Public Works, Canby Utility, Canby

Planning Department, Canby School District, Canby Fire District, Canby Police Department and the Canby City Recorder met with the RARE participant from November 2008 through February 2009 to update and develop the existing plan. The plan will be reviewed yearly and updated every five years.

Recommendation: Staff recommends the council approve Resolution 1042 to adopt The Natural Hazards Mitigation Plan Addendum.



August 25, 2009

Mr. Dennis Sigrist
State of Oregon
Office of Homeland Security
Oregon Emergency Management
P.O. Box 14370
Salem, Oregon 97309-5062

Dear Mr. Sigrist:

As requested, the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) has completed a pre-adoption review of the following plans:

- City of Canby Addendum to the Clackamas County Natural Hazard Mitigation Plan
- City of Port Orford Addendum to the Curry County Natural Hazard Mitigation Plan

These addenda successfully contain the required criteria, excluding the adoption, for hazard mitigation plans, as outlined in 44 CFR Parts 201. The plan review worksheets are enclosed. This letter serves as Region X's commitment to approve the addenda upon receiving documentation of each jurisdiction's adoption of the appropriate addendum.

Each addendum will not be formally approved by FEMA until it is adopted. Each community is not eligible for mitigation project grants until their addendum is formally approved by FEMA.

Please contact our Regional Mitigation Planning Manager, Kristen Meyers, at (425) 487-4543 with any questions.

Sincerely, ,

Ryan Ike
Risk Analysis Branch Chief
Mitigation Division

Enclosure

KM:bb

RESOLUTION NO. 1042

A RESOLUTION ADOPTING THE CITY OF CANBY'S REPRESENTATION IN THE CLACKAMAS COUNTY MULTI-JURISDICTION NATURAL HAZARDS MITIGATION PLAN

WHEREAS, the City of Canby is vulnerable to the human and economic costs of natural, technological and societal disasters, and

WHEREAS, the City Council of the City of Canby recognizes the importance of reducing or eliminating those vulnerabilities for the overall good and welfare of the community, and

WHEREAS, the City of Canby has participated in the development of the Clackamas County Multi-Jurisdiction Natural Hazards Mitigation Plan, which has established a comprehensive, coordinated planning process to eliminate or minimize these vulnerabilities, and

WHEREAS, the City of Canby's representatives and staff have identified natural hazard risks and prioritized a number of proposed actions and programs needed to mitigate the vulnerabilities of the City of Canby to the impacts of future disasters, and

WHEREAS, these proposed projects and programs have been incorporated into the Clackamas County Multi-Jurisdiction Natural Hazards Mitigation Plan that has been prepared and promulgated for consideration and implementation by the cities of Clackamas County; NOW THEREFORE

THE COMMON COUNCIL OF THE CITY OF CANBY RESOLVES AS FOLLOWS:

Section 1. The Common Council of the City of Canby hereby accepts and approves of its section of the Clackamas County Multi-Jurisdiction Natural Hazard Mitigation Plan as a reasonable process to identify and plan for potential hazards in The City of Canby and Clackamas County,

Section 2. The agency personnel of the City of Canby are requested and instructed to pursue available funding opportunities for implementation of the actions and proposals designated therein,

Section 3. The City of Canby will, upon receipt of such funding or other necessary resources, seek to implement the mitigation proposals identified by the Jurisdiction's Hazards Mitigation Planning Committee, and

Section 4. The City of Canby will continue to participate in the updating and expansion of the Clackamas County Multi-Jurisdiction Natural Hazards Mitigation Plan in the years ahead, and

Section 5. The City of Canby will further seek to encourage the businesses, industries and community groups operating within and/or for the benefit of the City of Canby to also participate in the updating and expansion of the Clackamas County Multi-Jurisdiction Natural Hazards Mitigation Plan in the years ahead.

This resolution shall take effect on October 7, 2009.

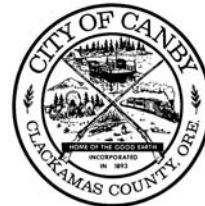
ADOPTED by the Canby City Council at a regular meeting thereof on October 7, 2009.

Melody Thompson
Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder

DUE TO THE SIZE OF
THE HAZARD
MITIGATION PLAN –
PLEASE CONTACT
CITY HALL TO
REVIEW A COPY.



MEMORANDUM

TO: *Honorable Mayor Thompson and City Council*
FROM: *Dwayne Barnes, Director of Public Works*
DATE: *September 22, 2009*
THROUGH: *Amanda Klock, Acting City Administrator*

Issue:

Shall the City of Canby assume jurisdiction of SE 13th Avenue between SE Ivy Street and a point approximately 358 linear feet east of SE Teakwood Street totaling approximately 3,952 linear feet.

Synopsis:

In the fall of 2008, the City completed a road reconstruction/traffic calming project on SE/SW 13th Avenue. With the street now meeting City standards, staff recommends the City assume jurisdiction of that portion of the project that is under the jurisdiction of Clackamas County, namely SE 13th Avenue between SE Ivy Street and a point approximately 358 linear feet east of SE Teakwood Street totaling approximately 3,952 linear feet.

Recommendation:

Staff recommends that the City Council adopt Resolution 1045 requesting Clackamas County Surrender jurisdiction of SE 13th Avenue between the easterly right-of-way of S. Ivy Street and a point approximately 358 linear feet east of the easterly right-of-way of SE Teakwood Street totaling approximately 3,952 linear feet.

Background:

In the fall of 2008, the City contracted with Eagle Elsner, Inc. to construct improvements on SE/SW 13th Avenue. The project began just west of Aspen Way where the Berg Parkway Project ended and proceeded easterly to a point approximately 358 feet east of the easterly right-of-way of SE Teakwood Street. The project consisted of sections of full depth reconstruction using the concrete treated base method and sections of standard 2-inch overlay depending on the surface and base conditions. Other components included traffic calming island, speed table, revised striping and decorative thermoplastic pedestrian crossings. The total project including engineering was \$671,617.

Assuming jurisdiction of County Roads within the City limits after the road has been improved, provides the City sole jurisdiction as it relates to operation and maintenance of the street. It also applies City Standards to new developments that may be required make road improvements. The City and County have opposite views as to who should be responsible for drainage of public roads. The County requires the developer of a new road to maintain a stormwater system off of the public right-of-way. The City requires the developer to build the drainage system within the public right-of-way. When completed and approved the drainage system is maintained by the City. Staff is not comfortable requiring abutting property owners to be responsible for drainage generated from the surface of a City street, especially with the related liability from contamination that would result from a hazardous material spill.

Attachments:

Resolution 1045
Map of defining road segment

RESOLUTION NO. 1045

**A RESOLUTION REQUESTING CLACKAMAS COUNTY SURRENDER
JURISDICTION OF SE 13TH AVENUE BETWEEN THE EASTERLY RIGHT-OF-WAY
OF S. IVY STREET AND A POINT APROXIMATELY 358 FEET EAST OF THE
EASTERLY RIGHT-OF-WAY OF SE TEAKWOOD STREET TOTALING
APPROXIMATELY 3,952 LINEAR FEET**

WHEREAS, the City has completed street and traffic calming improvements to SE 13th Avenue between the easterly right-of-way of S. Ivy Street and the easterly right-of-way of S. Redwood Street; and

WHEREAS, Clackamas County maintains jurisdictional control of SE 13th Avenue between S. Ivy Street and Mulino Road; and

WHEREAS, the City wishes to assume jurisdictional control of SE 13th Avenue between the easterly right-of-way of S. Ivy Street and a point approximately 358 linear feet east of the easterly right-of-way of SE Teakwood Street totaling approximately 3,952 linear feet; and

WHEREAS, pursuant to ORS 373.270(6)(a), the City Council may initiate the surrender of county jurisdiction over a county road by passage of appropriate municipal legislation;

NOW THEREFORE, IT IS HEREBY RESOLVED by the City Council of the City of Canby, as follows:

- (1) Clackamas County is hereby requested to surrender jurisdiction over SE 13th Avenue between the easterly right-of-way of S. Ivy Street and a point approximately 358 linear feet east of the easterly right-of-way of SE Teakwood Street totaling approximately 3,952 linear feet.

This resolution will take effect on October 7, 2009.

ADOPTED this 7th day of October 2009 by the Canby City Council.

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder



MEMORANDUM

Date: September 22, 2009

To: Honorable Mayor and City Council

From: Cynthia Thompson, Transit Director

Subject: Transit Advisory Committee Recommendation – Resolution 1046

The Transit Advisory Committee (TAC) unanimously recommends the changes detailed in Resolution 1046. These changes will provide new membership opportunities to as many as two qualified individuals who reside outside the Canby Urban Growth Boundary. The members expect this change to improve their ability to recruit members with appropriate expertise and maintain a seven member committee.

RESOLUTION NO. 1046

A RESOLUTION AMENDING RESOLUTION NO. 857 AND RESOLUTION NO. 790 REGARDING THE MEMBERSHIP OF THE CANBY TRANSIT ADVISORY COMMITTEE.

WHEREAS, the Canby Transit Advisory Committee was formed by Resolution 790 in 2002 to advise the City of Canby regarding issues of on-going transit services for the City; and

WHEREAS, on May 5, 2004 by Resolution 857, Section 3A of Resolution 790 was amended to decrease the membership of the board from nine members to seven members; and

WHEREAS, it is the recommendation of the Transit Advisory Committee to further amend Resolution 790 and Resolution 857 to expand the area from which committee members may be selected to serve on the Transit Advisory Committee.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Canby City Council, as follows:

Section 1. Section 3 A of Resolution No 857 is amended to read as follows:

A. Membership: The members of the committee shall be appointed by the City Council upon recommendation of the committee chairperson and City Council transit committee liaison. The Mayor may vote only to break a tie, if necessary. The members of the committee shall serve at the pleasure of the Council.

The committee shall consist of a seven (7) member board with a City Council member to serve as a non-voting liaison. Committee membership requires either

1. Residence within the City's Urban Growth Boundary; or
2. Current employment or affiliation with a business or organization operating within the City's Urban Growth Boundary.

Total committee membership shall be limited to not more than two (2) members residing outside the City's Urban Growth Boundary.

Section 2. All other provisions of Resolution No. 790 shall remain in full force and effect.

This Resolution shall take effect on October 7, 2009.

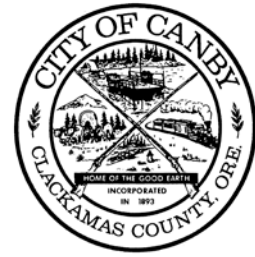
ADOPTED by the Canby City Council at a regular meeting thereof on October 7, 2009.

Melody Thompson
Mayor

ATTEST

Kimberly Scheafer, CMC
City Recorder

MEMORANDUM



TO: *Honorable Mayor Thompson and City Council*
FROM: *Penny Hummel, Library Director*
DATE: *October 5, 2009*
THROUGH: *Amanda Klock, Interim City Administrator*

Issue: Final City-County IGA and District IGA

Synopsis: Action is needed on the final IGA that addresses how the County will continue to provide centralized library network services including the computer system, courier and cataloging support, as well as the commitment that participating cities will receive a \$1 million capital contribution from the County's remaining library funds.

Recommendation: *Staff recommends the City Council adopt Resolution 1047 which adopts the IGA as provided by the County.*

Rationale: After review of the IGA, the City Attorney requested that the IGA be amended to better clarify the County's intent to maintain overall service levels at a level equal to FY09. This request was rejected. At least three other cities have signed the existing IGA and the County is unwilling to make any additional changes. Therefore, in the interests of ensuring the planned \$1 million contribution to the City of Canby in FY13 for capital improvements to the library moves forward as scheduled, staff recommends that the IGA be approved as provided by the County.

Options:

1. Approve the IGA as provided by the County.
2. Not approve the IGA.

Fiscal Impact: Without a signed IGA, the City will not receive the \$1 million capital contribution for the library in FY13.

Attachments: Cooperative Intergovernmental Agreement between Clackamas County and the City of Canby for the provision of library services.

RESOLUTION NO. 1047

**A RESOLUTION ADOPTING AN INTERGOVERNMENTAL AGREEMENT (IGA)
BETWEEN THE CITY OF CANBY (CITY) AND CLACKAMAS COUNTY (COUNTY)
FOR THE PURPOSE OF PROVIDING FUNDING FOR THE CANBY PUBLIC
LIBRARY**

WHEREAS, the County has formed a Library District to provide financial support to the library service providers of Clackamas County; and

WHEREAS, as part of the preparatory process for the formation of the District, the Clackamas County Board of Commissioners proposed a one-time contribution from the County general fund to each city providing library services in the District for the sole purpose of capital improvements to the libraries therein; and

WHEREAS, the County has proposed a form of IGA that is acceptable to the City; now therefore

IT IS HEREBY RESOLVED by the City of Canby Council as follows:

1. That the attached IGA, marked as Exhibit "A" and by this reference incorporated herein, by and between Clackamas County and the City of Canby is hereby adopted. The Mayor is authorized to sign the IGA on behalf of the City.
2. This resolution shall take effect on October 7, 2009.

ADOPTED this 7th day of October, 2009, by the Canby City Council.

Melody Thompson - Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder

COOPERATIVE INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLACKAMAS COUNTY
AND
THE CITY OF CANBY

THIS COOPERATIVE INTERGOVERNMENTAL AGREEMENT (this “Agreement”), is entered into this ____ day of _____, 2009, by and between the Clackamas County (the “County”) a political subdivision of the State of Oregon, and the City of Canby, a municipal corporation (the “City”).

WHEREAS, the County has formed the Library District of Clackamas County (the “District”), a county service district dedicated to supporting the provision of library services within its boundaries; and

WHEREAS, as part of the preparatory process for the formation of the District, the Board of County Commissioners proposed a one-time contribution from the County general fund to each city providing library services in the District for the sole purpose of capital improvements to the libraries therein (the “Capital Contribution”); and

WHEREAS, the City and other cities within the District have entered into a separate intergovernmental agreement dated June 25, 2009 with the District for the distribution of District funds for the purposes of operating, maintaining and enhancing services at the libraries within the District (the “District IGA”); and

WHEREAS, the County is entering into similar intergovernmental agreements with city library service providers (“Library Cities”) for their respective Capital Contributions; and

WHEREAS, the parties desire to enter into this Agreement to reflect the terms of the Capital Contribution by the County;

NOW, THEREFORE, the County and City each covenant and agree to the following:

Section 1 Obligations of the County

- 1.1 County Capital Contribution. The County shall provide a one-time capital contribution of One Million and No/100 Dollars (\$1,000,000.00) to the City for the purposes set forth in Section 2.2 (the “Capital Contribution”), which will be distributed in one or more distributions pursuant to Section 1.3 hereof. The goal of distributing such capital funds is to assist libraries in meeting the Service Standards as defined in the District IGA.

- 1.2 Library Capital Trust Fund. The County shall allocate a guaranteed amount per fiscal year to a County-managed dedicated library capital trust fund (the “Capital Fund”) as scheduled and set forth in Exhibit A (the “Disbursement Schedule”).
- 1.3 Capital Fund Distribution. The County shall disburse the Capital Contribution from the Capital Fund to the City and other Library Cities based on the Disbursement Schedule. The County shall make distributions up to the maximum available amount for that fiscal year. Such distribution will be made by the County no earlier than January of such fiscal year and no later than 60 days after the City submits to the County a capital plan identifying how the City will use the Capital Contribution. If requests for distributions in a given fiscal year are for a total amount less than the total amount in the Capital Fund, the County shall carry forward such balance to the next fiscal year for distribution as requested.
- 1.4 Changes In Capital Fund Disbursement Schedule. To the extent the City desires a change in the schedule of disbursement, the City shall meet with representatives of the other Library Cities as constituted by the Library District Advisory Committee or otherwise and arrive at a mutually agreeable reordering of the Disbursement Schedule, which shall then be presented to the County Board for its approval. The City hereby consents to an alteration of the Disbursement Schedule without requiring the adoption of a specific amendment upon presentation of a resolution agreed to by a majority of the representatives of the Library Cities consenting to such change and upon approval of the requested change by the Board of County Commissioners.
- 1.5 Library Network. The County currently funds and operates the Library Network of Clackamas County (the “Network”) to support the provision of services by the libraries in Clackamas County. The County shall fund the Network to provide the following services at an overall service level at least equal to that being provided by Network in fiscal year 2008/2009:
 - 1.5.1 Automated library system and related telecommunications and technical support;
 - 1.5.2 Courier services;
 - 1.5.3 Administration;
 - 1.5.4 Database management services including creating/acquiring MARC format bibliographic records;
 - 1.5.5 Inter-library loan services;
 - 1.5.6 Inter and intra-regional cooperative library planning;
 - 1.5.7 Shared online databases for public use; and
 - 1.5.8 Internet Service Provider for member libraries.

The County shall not be financially or otherwise responsible for the provision of new services requested or added to Network at the request of the City. To the extent the City or Library Cities generally request new or additional services, such requesting provider(s) will be billed back on separate contracts initiated as services are added. Such agreements shall not modify or restrict the covenants and agreements of the parties hereto.

Section 2 Obligations of the City

- 2.1 Capital Fund Disbursement. The City shall receive its Capital Contribution pursuant to Sections 1.3 and 1.4 hereof.
- 2.2 Use of Funds. The City shall expend the Capital Contribution solely for library purposes such as library construction, remodel, expansion, building and site improvements, library construction bonded debt service, and/or collection development.
- 2.3 Proof of Use. After distribution, the County may monitor the use of the Capital Contribution to ensure that these County general funds are used for purposes permitted by Section 2.2. Upon request of the County the City shall provide a certification that the Capital Contribution has been so used to the head of the Business and Community Services Department of Clackamas County or his or her designee.
- 2.4 Library Board Representation. The City shall provide for fair representation of served library patrons on the City's library board, including patrons from unincorporated Clackamas County.

Section 3 Term and Termination

- 3.1 Term. This Agreement shall commence on July 1, 2009 and automatically renew annually thereafter, unless otherwise terminated as set forth herein.
- 3.2 Termination. This Agreement shall terminate upon the agreement of both parties, or upon one hundred eighty (180) days prior written notice from one party to the other.
- 3.3 Amendment. This Agreement may be amended at any time upon the agreement of both parties.
- 3.4 Failure of the City to use Capital Contribution for Library purpose. If the City at any time uses the Capital Contribution other than for purposes permitted in Section 2.2., the City will be in material breach of this Agreement and shall promptly repay to the County that portion of the Capital Contribution s not so used plus accrued interest on such sum calculated from the date of disbursement to the date of repayment at a rate of 6% per annum.

Section 4 General Provisions

- 4.1 Indemnification. Each party shall release, defend, indemnify and/or hold harmless the other, its officers, commissioners, councilors, elected officials, employees, and agents, from and against all damages, claims, injuries, costs, or judgments that may in any manner arise as a result of the party's performance under this contract, subject to Oregon Tort claims limitations.
- 4.2 Governing Law. This Agreement shall be construed and governed in all respects in accordance with laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
- 4.3 Savings. Should any portion of this Agreement or amendment there to be adjudged by a Court of appropriate final jurisdiction to be in violation of any local, state or federal law, then such portion or portions shall become null and void, and the balance of the Agreement shall remain in effect. Both parties shall immediately renegotiate any part of this Agreement found to be in such violation by the Court and to bring it into compliance with said laws.
- 4.4 Reasonable Attorney's Fees. In the event any action is brought to enforce, modify or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys fees and costs incurred in connection with such action or on appeal or review; said amount to be set by the court before which the matter is heard.
- 4.5 Notices. Formal notices, demands and communications between the Parties shall be deemed given three (3) business days after being sent by registered or certified mail, postage prepaid, return receipt requested to the principal offices of the Agency and the City as designated herein. Such written notices, demands and communication may be sent in the same manner to such other addresses and to such other persons and entities as either party may from time to time designate by mail as provided in this section. Notices shall be sent to the addresses shown below and to the attention of the person indicated.

The principal offices and mailing address of the Parties are:

Clackamas County
Attn: Board of County
Commissioners
2051 Kaen Road
Oregon City, Oregon 97045

City of Canby
Attn: Penny Hummel
PO Box 930
Canby, OR 97013

- 4.6 No Personal Liability. No member, official, agent, or employee of the County or any City shall be personally liable to the other or any successor-in-interest thereto in the event of any default or breach by such entity.
- 4.7 No Agency. Neither anything in this Agreement nor any acts of the parties hereto shall be deemed or construed by the parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between any of the parties to this Agreement. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- 4.8 Entire Agreement. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties or the predecessors in interest with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the party granting such waiver.
- 4.9 Further Action. The parties hereto shall, without additional consideration, acknowledge, execute, and deliver from time to time such further instruments as a requesting party may reasonably require to accomplish the purposes of this Agreement.
- 4.10 Non-Waiver of Rights. The failure of a party to insist on the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach of any provision of this Agreement shall not constitute a waiver of any provision of this Agreement or limit the party's right thereafter to enforce any provision or exercise any right.
- 4.11 Time is of the Essence. A material consideration of the parties entering into this Agreement is that the parties will perform all obligations under this Agreement in a timely manner. Time is of the essence as to each and every provision of this Agreement.
- 4.12 Restricted Assignment. No party hereto may assign its rights, responsibilities or obligations hereunder to another party, by operation of law or otherwise, without (i) seeking and receiving an amendment of this Agreement and (ii) having said party join this Agreement on the terms, conditions and covenants herewith.
- 4.13 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts shall constitute one and the same instrument.
- 4.14 Library Authority. Clackamas County operates public libraries pursuant to a board order creating public libraries for all Clackamas County residents dated

July 9, 1938, as amended and updated pursuant to Board Order 85-1221 dated October 31, 1985. The Library Cities operate or in future plan to operate public libraries under state law within their boundaries. Under the District IGA, the Library Cities have agreed to provide public library services in unincorporated areas of the County as well as within City boundaries. Clackamas County nonexclusively delegates the authority to operate public libraries for the benefit of incorporated and unincorporated residents of Clackamas County to the City.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.

THE CITY OF [NAME]	CLACKAMAS COUNTY
By:_____	By:_____
Title: Mayor	Title: <u>Chair</u>
ATTEST: _____	ATTEST: _____

Exhibit A

Disbursement Schedule

	Year 1 2009/10	Year 2 2010/11	Year 3 2011/12	Year 4 2012/13	Year 5 2013/14	TOTAL
Annual Distribution	3,500,000	3,000,000	2,500,000	2,000,000	1,250,000	12,250,000
Prior Year Carryover	--	1,350,000	350,000	850,000	--	
Total Funds Available	3,500,000	4,350,000	2,850,000	2,850,000	1,250,000	
Library Cities:						
<i>Canby</i>				1,000,000		1,000,000
<i>Estacada</i>	1,000,000					1,000,000
<i>Gladstone</i>		1,000,000				1,000,000
<i>Happy Valley</i>		2,000,000				2,000,000
<i>Lake Oswego</i>			1,000,000			1,000,000
<i>Milwaukie</i>				1,000,000		1,000,000
<i>Molalla</i>	150,000			850,000		1,000,000
<i>Oregon City</i>		1,000,000				1,000,000
<i>Sandy</i>			1,000,000		250,000	1,250,000
<i>West Linn</i>	1,000,000					1,000,000
<i>Wilsonville</i>					1,000,000	1,000,000
Total						12,250,000
Carryover:	1,350,000	350,000	850,000	--	--	